



State of Delaware  
Commission on Forensic Science  
(CFS)

Minutes

02/02/15

10:00 -12:00

Division of Forensic Science  
1<sup>st</sup> Floor Conference Room  
200 South Adams Street  
Wilmington, DE 19801

**1. Welcome, Call to Order, and Room Introductions**

- The meeting was called to order by Secretary Lewis Schiliro who provided a brief welcome and thanked everyone for making the trip through the difficult weather this morning. He requested that everyone introduce themselves for the record. Those in attendance were as follows:

**Voting Commission Members**

Secretary Lewis D. Schiliro  
Major John Evans  
Kathleen Jennings  
Senator Robert Marshall  
Lisa Schwind, Esquire  
Anita Symonds, RN  
Clytrice L. Watson, Ph.D.

Department of Safety & Homeland Security-**Chair**  
Delaware State Troopers Association  
DE Department of Justice – State Prosecutor  
Delaware State Senate  
Public Defender's Office – Forensic Attorney  
Christiana Care  
Associate Dean – Delaware State University

**Non-voting Commission Support**

**Commission's Legal Support**

DAG Lisa Morris

Department of Justice

## **Council Support**

Dee L. Rivard  
Patricia McIlvaine

Department of Safety & Homeland Security  
Division of Forensic Science

## **Additional Non-voting Attendees**

Dr. Gary Collins  
Dr. Edward McDonough

Division of Forensic Science, Chief Medical Examiner  
Division of Forensic Science, Assistant Medical Examiner

Kimberly Chandler

Department of Safety & Homeland Security  
Communication's Chief

Randall L. Hughes  
Kristin Skurla  
Isabella Kaplan

Division of Forensic Science, Acting Director  
DTI – Project Manager  
DTI – Customer Engagement Specialist

## **Absent Voting Commission Members**

Secretary Rita Landgraf  
Representative J. Larry Mitchell  
Chief William Topping

Department of Health & Social Services – **Co-Chair**  
Delaware House of Representatives  
Delaware Police Chiefs' Council, President

## **2. Approval of the Minutes**

- Secretary Schiliro asked everyone if they had reviewed the minutes of the last meeting and, hearing no objections, asked for a motion to approve the minutes. Major John Evans motioned to approve and Anita Symonds seconded the motion, with voting members in attendance unanimously voting to approve the minutes of the December 2, 2014 meeting.

## **3. 2015 Commission Goals and Objectives**

- Secretary Schiliro conveyed that this is the Commission's first meeting of 2015 and that it is an important year. We received the Andrews International reassessment and will present our first annual report to the General Assembly and the Governor. Secretary Schiliro said today's meeting would consist primarily of a discussion of the Andrews International Report for the DFS reassessment, approving revisions to the Commission's rules and regulations relating to the Commission's standing committees, receiving briefings from the committee chairs, and a review of the first draft of the annual report. Secretary Schiliro advised that if any Commission member wanted to make a brief statement as a member for inclusion in the annual report, they were welcome to do so.

### **3. 2015 Commission Goals and Objectives (cont'd)**

- Secretary Schiliro said that a lot of time this past year was spent correcting many issues. We did say it wasn't a matter of applying a Band-Aid to the issues. This year the Commission will spend a lot of time looking at how we are going to supply services to the citizens; however, he advised that people do want to get the problems resolved. Citizens may not want to trust the police but they have to trust the science. The incidents this year in Ferguson, MO, and Staten Island, NY, played a large part in that mistrust. In 2015, we would like to get these matters to a point where we are able to prove to our citizens just how important forensic sciences are today. This will be the Commission's primary role in 2015.
- Secretary Schiliro expressed that we would also like to put ourselves in the position where we know what it will take to consolidate resources. Currently, the adequacy and viability of the Division of Forensic Science (DFS) building itself is in question. A study needs to be commissioned for a state-of-the-art Forensic Science building to adequately house and consolidate DFS services, both for the Medical Examiner and Forensic Laboratories segments. A study and presentation would probably be in the \$350M range.
- Senator Marshall asked where the \$350M figure came from and Secretary Schiliro responded that it is a proposed figure, and that he is unsure if that number would be kept or not. We realize this consolidation would most likely be 3-5 years down the road, but we need to start the process now. Senator Marshall responded to this proposal by saying that we have professionals here in Delaware who could do the studies, rather than going to outside consultants. The Commission needs to look at the adequacy of the Medical Examiner segment and whether or not we can consolidate all forensic services. It is our responsibility under the Delaware Code to produce this study. The Division of Forensic Science is very important and has a wealth of information and expertise relating to many different aspects that contribute to our being able to rely on science. Secretary Schiliro noted there are companies that specialize in building a lab but not architecturally or contractually for building and consolidating service requirements.

#### **4. Rules and Regulations**

- Secretary Schiliro turned the meeting over to DAG Lisa Morris to talk about the Commission's Rules and Regulations. DAG Morris distributed copies of the proposed Rules & Regulations and she advised that the only changes that were made were the two committees that were suggested and voted upon at the last meeting. The Strategic Planning Advisory Committee will include an education portion as well as reviewing the DFS facility and potential feasibility of integrating other forensic services. The Standards and Certification Advisory Committee will review the quality and availability of training including types of certification. Commission members need to vote today to complete section 5.2.1 and section 5.2.3 of the Rules and Regulations.

#### **5. DFS Update**

- Secretary Schiliro moved members forward to the next part of our meeting advising that the crux of our meeting today covers the Andrews' reassessment report. He was very pleased with their report the second time around. He turned the meeting over to Acting Director R. L. Hughes to provide members with a recap. Acting Director R. L. Hughes provided Commission members with a copy of the reassessment stating that although their first report was pretty scathing, the Andrews' team was pleased with the tremendous amount of progress the Division of Forensic Science made. The original assessment contained 94 recommendations that needed either significant work or improvement. With the follow-up report, there are only 8 remaining recommendations needing work or improvement. He emphasized the "we", stating that this was definitely a team effort.
  - a. Of the 8 recommendations remaining, there are some personnel issues remaining which, of course, require money to improve.
  - b. In the past, we have talked about accreditation and R.L. is happy to share that DFS labs are fully accredited now and the ME team are awaiting accreditation from the National Association of Medical Examiners (NAME).
  - c. Of the 8 recommendations not approved, another one relating to personnel matters recommended obtaining a fixed agreement with new employees and having them sign an agreement stating that they would stay with DFS for a certain period of time.

- d. We are trying to address the Forensic Laboratory Information Management System (FLIMS) issue but have not made much headway. FLIMS is not user friendly and was purchased a number of years ago. R. L. emphasized that DFS has some very good people here who have found a number of ways of working around this system but we are still looking at either improving FLIMS itself or obtaining a different program.
- e. Salaries were another recommendation and we are working on that within the confines of state government. Our forensic morgue assistants were reclassified and have received an increase in salary.
- f. We are moving forward with the Quality Assurance Team and that will tie in nicely with Dr. Watson's team. As far as audits on Quality Assurance, we were working through accreditation with the ISO 17025:2005 accreditation process. Commission members wondered if DFS is making progress toward ASCLD certification. Not at this time, however, our Toxicology Laboratory is currently making progress toward ABFT accreditation.
  - Acting Director Hughes stated that what they are assessing are categories of standards. DFS is ISO 17025:2005 compliant. Assessors look at the standards, policies and practices. FQS or ANAB does it as well, but on a limited scope. If we decided today that we wanted ASCLD accreditation, it would take a while because we would have to gear up for their accreditation. However, we think at this point in time, the DFS building itself would be an impediment to obtaining that accreditation. Secretary Schiliro agreed that there is concern as to whether or not certain parts of this building would pass the ASCLD certification. Kathleen Jennings said she, too, is aware of the building issues. R.L. said he believes we can educate the public that we are accredited through a different agency that is acceptable.
  - R. L. then provided members with an update on our building issues stating that after 13 weeks, we have heat and that is a good thing. Approximately \$750,000 was allocated for this year and next to work through facility issues such as roof leaks, plumbing, HVAC, and ground fault interrupters.
  - Lisa Schwind shared that NY, NJ, MD, and PA are all ASCLD-certified. She said the National Institute of Standards and Technology is meeting in February in Orlando, FL,

and will be releasing standards for different areas of forensic science. These will replay on webinars. She asked if anyone from DFS is attending that meeting. R.L. responded that DFS does not currently have the funding for people to attend. He said that Robyn Quinn, who is an assessor with ANAB, is aware of the webinars.

- g. Another recommendation related to obtaining a new position for DNA. R. L. shared that within state government creating new positions is very difficult. Additionally, we have been trying to determine what that position would be. There is still discussion among the DFS leadership team.
- h. Regarding the other 86 items that are no longer open, we all worked very hard as a team at DFS. R. L. noted that Controlled Substances worked through all of their procedures and practices, Toxicology is going paperless, and the DNA team is concentrating on their input-throughput-output. Currently, there is "0" backlog for sexual assaults and homicides. There are 46 cases unassigned but none are sexual assaults or homicides. He advised that an agreement is being signed with Bode Technologies to enable DFS to outsource older, unassigned gun cases. The Bode agreement is being paid for through additional funds from the Secretary's Office which totals approximately \$30,000. Anita Symonds stated that the DNA unit has shown a herculean effort.
  - Kathleen Jennings noted that Manhattan has freed up \$25 million nationwide to assist with the backlog of rape kit testing. R.L. responded that the FBI offered to test the backlog of kits free of charge. She stated that her concern is with the police departments. She suggested that it may make sense for DFS and the Police Chiefs Council to form a working group for other police agencies to assist them in resolving their backlog. There is a need to ensure that all agencies are looking at their testing kits. Secretary Schiliro stated that perhaps we should go to the Police Chiefs and request for them to survey all of their agencies to determine the number of kits outstanding as now is the time to get them tested.
- Acting Director R.L. Hughes provided an update on the DFS transition with DTI from DHSS. He introduced everyone to Isabella Kaplan, who is our representative on transition issues, and Kristin

Skurla, who is the project manager. Ms. Kaplan reported that this transition is quite an undertaking. The DFS facility is very much lacking in technology. Our technology, as far as instrumentation is concerned, is where we need it to be; however, we cannot network them together. Ms. Skurla added that currently DTI is working on basic issues. There will be over \$1 million of work going on. Secretary Schiliro advised that when DHSS had control of the Medical Examiner's Office, they used their own technology people. He feels that DTI has been phenomenal and that they are incredibly responsive.

- a. Kristin stated that DTI reviewed all DFS technology in the Wilmington building including phones, computers, networks, etc., as well as looking at DHSS and the difficulty in moving DFS infrastructure and data from DHSS to DSHS.
- b. The first issue DTI needs to address is that the DFS network is a 20 year old network that is in danger of catastrophic failure. DTI should have this updated by mid-April 2015. DTI is also assisting DFS with their Disaster Recovery Plans. In the event of a network failure and the inability to use the DFS building, what do we do? DTI is working with DFS to determine what we do and to ensure that the technology is there for DFS staff.
- c. DTI then completed phone assessments and found the DFS phone system to also be 20 years old and causing day-to-day challenges. DTI placed orders for new phones which should arrive by mid-February 2015.
- d. The next issue that DTI needs to address is the dissection of data from DHSS in order to move DFS data to DSHS. We have to make sure that we are leaving DHSS whole. In the process of moving data, we do not want to break anything. DTI has a preliminary plan to have everything at DFS moved into the DSHS realm by September 2015.
- e. Kristin has reviewed the FLIMS system and spoke to R. L. about a statewide bar coding system. She has talked with police agencies and the DOJ, completed requirements and delivered them to Secretary Schiliro. DTI will now be entertaining vendors for a statewide bar coding system that will be inclusive from police agencies, to DFS, the state police lab, the DOJ, forensic pieces, through the destruction of evidence. The current system had a lot of modification done to it. Currently DTI is looking at 3 major companies including DELTA through the current system, and two other companies, to update this system and bring it to

where it needs to be. Secretary Schiliro stated that if we look back to the issues the OCME had, probably 95% of it could be resolved by an evidence tracking system here and throughout the statewide system. If we can accomplish it this year, it would be huge and, as a Commission, we need to ensure that this will happen.

➤ Kathleen Jennings seconded his opinion that the failure to successfully track evidence was the major cause of the issue. On top of this, another big issue was the lack of internal security in terms of who was in the evidence locker when and fixing those issues was vitally important.

- f. Senator Marshall inquired if we have repaired the human error here and Secretary Schiliro responded, nearly. He also remarked that DFS has come so very far and now has access control to the evidence lockers, proper building security and once we are able to go to a statewide bar code system, we will have made incredible progress.
- g. Kathleen Jennings shared that in talking to lay people, she discovered that evidence testing integrity has been restored and that illegal substances are the same going in as going out. R.L. advised that the integrity of the people doing drug testing is ensured because they are now background checked with criminal testing, fingerprinting, and drug testing. He stated that the people here are good people, bright people, who truly believe in the science and were unfortunately painted in the media with a broad brush.
- h. Lisa Schwind questioned the video phone system and whether upstate DFS will have access to downstate DFS. Kristin responded that DTI has not yet addressed that issue. Going forward, there were a lot of things identified as “wish list” projects that have been submitted to help DSHS understand what they need from a technology perspective and a budget prospective. R.L. said we had our toxicology group and the staff on a webinar but some people could see the feed and others could only hear it. Lisa asked how people go to Georgetown to see the body and make their identification without actually having to go down there. She stated that video phones are in all of the police agencies here. R.L. responded that the people here would appreciate being able to use that in the Courts; however, we are not there yet and we do not have the funding at this point.

➤ Kristin stated that everything we have talked about here today is for the DFS Wilmington facility. Unfortunately, the Tobin Bldg. in Georgetown is probably going

to have to stay under DHSS purview because of how that entire building was laid out. Kristin said that DTI can switch and reroute network traffic systems but it would cost millions of dollars.

- She added that from the hardware perspective, the Georgetown phones and the hardware systems will be monitored but will be under DHSS. The good news is that all of the network systems reside in Wilmington and there is only one piece of lab equipment in Georgetown, which is an X-ray machine that we will have to worry about.
- Secretary Schiliro thanked DTI for all of their hard work and partnership.
- R. L. Hughes handed out a draft copy of the Annual Report currently being put together for submission to the General Assembly and the Governor. He indicated that this draft report is the beginning of a template which we would like to use for the annual report going forward. He emphasized that it is confidential and not for release. He asked that after Commission members have reviewed it, please let him and/or Secretary Schiliro know if there is anything they believe needs to be added.
- R.L. said in keeping with full disclosure, an issue came up a couple of weeks ago regarding cocaine that was retested by a private lab and found not to be cocaine. He has proof that when it arrived here on 6/13/12, it was cocaine and showed Commission members the lab testing results. The material was tested and placed in the drug vault on the same date.
  - a. Kathleen Jennings asked that once tested here and DFS has the results, where did those substances physically go? R.L. responded that after testing, the police are called to pick up the evidence. She told members that Delaware had to Nolle Process that case. For this case, the drugs were actually brought here by DSP and turned over to an individual who is no longer here at DFS.

- b. Senator Marshall asked if the evidence was photographed. R.L. responded, no, it was not originally, although photographing is being done now. Evidence now is brought here by the police. We will test the substance, certify it, and testify about it. We are neither in the storage business nor the transport business. Senator Marshall inquired as to what type of evidence is stored here? R.L. responded that we really don't want to be in any evidence storage at all. Today, the DNA evidence arriving here is in the form of swabs in an evidence envelope. Also, there could be clothing, sheets, knives, or even, say, a hammer. It is not the norm to bring in guns. It is going to be processed and out. The analysis of DNA takes approximately 33 days right now.
- c. Kathleen requested that DSP investigate the issue of the missing cocaine. R.L. responded that there are two ongoing investigations - criminal and administrative.
- d. Lisa Schwind stated that the toxicology package that is now being sent out or perhaps the controlled substance package (she wasn't sure which) is beautiful and didn't leave any questions. That streamlines things so going forward there might be a better understanding that the evidence "is what it is". The DNA lab has been providing things like this for a long time. The report also showed all of the additives that were in the cocaine, which is the first time they have received this information.
- Major Evans shared that DSP has seen the DFS mass fatality plan and that he had received an e-mail from Dr. Adrienne Perlman, who has been working hard on that plan. R.L. told members that a mass fatality is defined as 3 or 4 or more deaths. The recent bus accident could have been a mass fatality. Dr. Perlman has done an excellent job of bringing that issue up and getting us speaking with DHSS about resources they had, including a temporary morgue that we could have used if needed. Secretary Schiliro told members what a tremendous responsibility DFS has in a mass fatality. He feels that the Andrew's Report made a good point in their initial assessment. Secretary Schiliro believes that as far as the Standards and Certification committee, we are in good shape as far as our report back; although next year we need to set an agenda as to where we are now and where we need to be. In his view, one vision would be to look at how we process a scene and to really be holistic in our approach and to bring all of those sciences together.

## 6. Strategic Planning Advisory Committee Membership List

- Major Evans reported that after the last Commission meeting, he reached out to several people to obtain broad representation including 2 representatives from DFS, one from DOJ, and one from the Public Defender's Office. He would like to bring in someone from the academia field to offer some expertise.
- In the document he disseminated, Major Evans listed committee objectives that are a roadmap to use at his first committee meeting. He is looking at codifying the relationship between DHSS and DFS. DFS has provided significant demographics on drugs to DHSS. This Commission has a responsibility to codify that relationship. He has worked with DAG Lisa Morris to gain access to the public meeting calendar as the committee meetings require a 7-day advance posting.
- Kathleen Jennings thinks that this is an excellent summary of where we would like to be. It is important to understand why we need to get everything going to one location. Currently, DNA testing, fingerprint testing, gun residue testing, etc. goes to several different locations which ends in delayed results and prohibitive costs to agencies. This effort to centralize in-house testing is critical. Secretary Schiliro stated that there was a concern within the General Assembly that having the ME within an agency that also supervises the law-enforcement would cause a conflict. We are on the right track to keep it all together. It is where it needs to be when developing an independent cause of death while housing toxicology and testing together.
- Major Evans advised that the committee will look at reviewing the costs of sending testing out versus doing it within the state. Secretary Schiliro stated that he will continue to press on reviewing the facility.
- Senator Marshall asked Kathleen about the unsolved murders in Wilmington and how could this improve and help to focus in on beginning to identify some of the murderers who are roaming the city today and have never been arrested because we cannot identify them. How does the new building and integration of the testing help? Kathleen responded that the solve rate for Wilmington shootings and homicides was 15% if you leave aside the no snitch culture. One way it can help is with intelligence investigative links. We need to get that

intelligence to investigators faster. In terms of the actual science, the faster we get fingerprinting, DNA, gun residue, NIBIS hits, the better off we are at being able to link it to another case and start working on the relationship between the two cases to gather evidence to solve the cases. We are also solving cases through social media and cell phones; it is as critical as forensics in solving cases. To the extent that we could house all of this under one roof, it would help to solve the cases faster.

- R.L. stated that from a forensic science perspective, we do not determine guilt or innocence, we process evidence and the science tells us what the evidence says. To get all of those pieces under one roof, allows you to get the information faster to the people who need it to solve the case.
- Secretary Shiliro then turned the meeting over to Dr. Watson for an update on the Standards and Certifications Advisory Committee.

## **7. Standards & Certifications Committee membership List**

- Dr. Watson advised that as Chair of the Standards and Certifications committee, she reached out to obtain representatives for each of the areas of subject matter expertise. Voting committee members are: A. Robyn Quinn, Laboratory Manager II, DFS; Patricia A. Monaghan, Quality Assurance Manager, DFS; Johna Esposito, Toxicology Supervisor, DFS; and Dr. Alice Brione, Lt. Col. USAF, Lisa Schwind, Esq., Public Defender's Office, and myself. Non-voting members are: Councilman Wallace Dixon, City of Dover (Accepted); Jea Street, Community member, New Castle County; Michael Vincent, community member Sussex (invited) and Theopalis Gregory, Sr. (invited) with Maria Cabrera as an alternate. Voting members will vote on recommendations to bring to the Commission. Non-voting members will serve as community liaisons for community outreach. She briefed members on the Committee's goals and objectives and advised that she will provide a list of committee meetings dates going forward.
- Dr. Watson said the educational platform is very important. It will be great to really connect with the community and make them aware of the corrections that were made and explain the sciences to regain their trust.

## 8. Commission Members Open Discussion

- Secretary Schiliro asked if anyone had any questions. Hearing none, he requested a motion to approve the Rules and Regulations as revised. Senator Marshall motioned to approve, Lisa Schwind seconded the motion, which was unanimously approved by voting members of the Commission who were present.
- Secretary Schiliro remarked that he likes the new DFS slogan “**Science Serving Justice**”. He noted that this Commission is responsible for ensuring that we deliver appropriate science services.
- Senator Marshall told members that it is a very good feeling for a member of the legislature to be able to see 8 months later, an agency/Commission to have made remarkable, significant progress and he thinks that everyone involved is to be commended.
- Secretary Schiliro stated that he met with Senator Marshall back in June and that Senator Marshall was a guiding force behind this issue and the progress that we are making.
- Secretary Schiliro told members that at the next meeting, we will have completed the report back to the General Assembly and the Governor and that he will look forward to 2016 submission of the report. He stated that even though once again we find ourselves in a very difficult budget year, we will continue to advocate for DFS.

## 9. Adjourn

- Senator Marshall made a motion to adjourn the meeting, Kathleen Jennings seconded the motion, which was unanimously approved by voting members of the Commission present.
- The meeting adjourned at 11:55 a.m.

**Next Meeting: Monday, April 6, 2015**

10:00 am – 12:00 am

Location: Division of Forensic Science

1<sup>st</sup> Floor Conference Room